

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

JOANNE ALLAN,

Plaintiff,

v.

Civil Action No. \_\_\_\_\_

NCO FINANCIAL SYSTEMS, INC.,

**JURY TRIAL DEMAND**

Defendant.

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

**I. INTRODUCTION**

1. This is an action for actual and statutory damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

**II. JURISDICTION AND VENUE**

2. Jurisdiction of this court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. § 1337.
3. Venue is proper in this district under 28 U.S.C. §1391(b) in that the Defendant transacts business here and in that the conduct complained of occurred here.

**III. PARTIES**

4. Plaintiff Joanne Allan is a natural person residing in the County of Wyoming and State of New York and is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).
5. Defendant, NCO Financial Systems, Inc. (hereinafter "NCO") is a foreign business corporation organized and existing under the laws of the State of Pennsylvania and is a "debt collector" as that term is defined by 15 U.S.C. §1692a(6).
6. Defendant regularly attempts to collect debts alleged to be due another.
7. The acts of the Defendant alleged hereinafter were performed by its employees acting within the scope of their actual or apparent authority.

8. All references to "Defendant" herein shall mean the Defendant or an employee of the Defendant.

#### **IV. FACTUAL ALLEGATIONS**

9. That Plaintiff allegedly incurred a debt for consumer purposes. This debt will be referred to as "the subject debt."
10. That the subject debt arose out of a transaction in which money, services or property, which was the subject of the transaction, was primarily for personal, family and/or household purposes. As such, said debt is a "debt" as that term is defined by 15 U.S.C. §1692a(5).
11. That Plaintiff defaulted on the subject debt.
12. That owner of the subject employed NCO to attempt to collect said debt.
13. That in December of 2007, Plaintiff noticed that the telephone number of NCO appeared on her caller ID system. Plaintiff immediately called said telephone number. An employee of NCO answered the telephone and gave Plaintiff her company name and her name. Plaintiff did not recognize either name, and told said employee that she must have the wrong telephone number, and hung up the telephone.
14. That NCO never mailed Plaintiff a written communication disclosing the information as required by 15 U.S.C. §1692g(a).
15. That as a result of Defendant's FDCPA violations Plaintiff has become nervous, anxious, upset and has suffered from emotional distress.

#### **V. CAUSE OF ACTION**

16. Plaintiff repeats, re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 18 above.
17. The conduct of Defendant as described in this complaint violated the Fair Debt Collection Practices Act (15 U.S.C. §1692 et seq.) as follows:
  - a. Defendant violated 15 U.S.C. §§ 1692d and 1692d(5) by continuously causing Plaintiff's telephone to ring with the intent to annoy, abuse, and harass, as described in paragraphs 13 and 14 of this Complaint.
  - b. Defendant violated 15 U.S.C. §1692g by failing to send Plaintiff written notice pursuant to their initial communication, as described in paragraphs 13, and 14 of this Complaint.

18. That as a result of the Defendant's FDCPA violations as alleged herein, Plaintiff and her parents became nervous, anxious, upset, and suffered from emotional distress.

**WHEREFORE**, Plaintiff respectfully requests that judgment be entered against the Defendant for:

- (a) Actual damages;
- (b) Statutory damages for pursuant to 15 U.S.C. § 1692k;
- (c) Costs, disbursements and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k;
- (d) For such other and further relief as may be just and proper.

**A JURY TRIAL IS DEMANDED.**

Dated: February 5, 2008

s/Kenneth R. Hiller  
Kenneth R. Hiller, Esq.  
The Law Office of Kenneth R. Hiller  
*Attorneys for Plaintiffs*  
2001 Niagara Falls Boulevard  
Amherst, NY 14228  
(716) 564-3288  
Email: khiller@kennethhiller.com

**VERIFICATION OF COMPLAINT AND CERTIFICATION BY PLAINTIFF**

Joanne Allan affirms that the following statements are true and correct under penalties of perjury:

I am the Plaintiff in this civil proceeding.

I have read the above-entitled civil Complaint prepared by our attorney and believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.

I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.

I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.

I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

Dated: February 5, 2008

s/Joanne Allan

Joanne Allan